

KERALA TOURISM (CONSERVATION AND PRESERVATION OF AREAS ACT, 2005

ACT 8 OF 2005 The Kerala Tourism (Conservation and Preservation of Areas) Act, 2005 An Act to provide for the conservation and preservation of tourist areas in the State and for matters connected therewith or incidental thereto A Preamble- WHEREAS it is expedient to make provisions for the conservation and preservation of tourist areas in the State and for matters connected or incidental thereto; BE it enacted in the Fifty-sixth Year of the Republic of India as follows:- 1, Short title, extent and commencement (1) This Act may be called the Kerala Tourism (Conservation and Preservation of Areas) Act, 2005 (2). it extends to the whole of the State of Kerala, to be deemed to have come into force on the 9th day of February 2005. 2 *Definitions- In this Act, unless the context otherwise requires, (a) 'committee' means the State Tourism Conservation and Preservation Committee constituted under section 4; (b) 'local authority' means a village panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994); (c) 'prescribed' means prescribed by rules made under this Act; (d) 'special tourism zone' means any area declared as such by Government under section 3; (e) State of Kerala; (f) 'tourist' means any area notified by the Government in the Gazette to be a tourist area for the purposes of this Act; 3 Special Tourism Zone- (1) The Government may, by notification in the Gazette, declare any area within the State as 'Special Tourism Zone' for the conservation, preservation and integrated planned development of such area, (2) No developmental activity including construction in a Special Tourism Zone shall be carried except in accordance with such guidelines as may be issued by the Committee 4 Constitution of Tourism Conservation and Preservation The Government shall constitute a Committee called the 'State Tourism Conservation and Preservation Committee' (hereinafter referred to as the 'Committee') for the conservation, preservation and integrated planned development of the Special Tourism Zone. (2) The Committee shall consist of the following members, namely:- (i) Secretary to Government in-charge of Tourism; (ii) Secretary to Government in-charge of Local Self Government Department; (iii) Director, Department of Tourism; (iv) Director, Department of Archaeology; (v) Chief Town Planner, Government of Kerala; (vi) An expert in the field of environment, nominated by the Government; (vii) An expert in the field of tourism nominated by the Government; (3) The Secretary to Government in-charge of Tourism shall be the Chairman of the Committee and the Director, Department of Tourism shall be the Convener, (4) The Chairman shall co-opt to the committee the District Town Planner and the President or Chairperson, as the case may be, of the local authority having jurisdiction over the area of Special Tourism Zone and every member as so co-opted shall be entitled to take part in the meetings of the Committee and to vote in respect of such matters as may be prescribed: Provided that, any officer or officers may be made as the special invitees at the time and place to be fixed by the committee and their proposals and suggestions may be recorded, (5) The Committee shall meet at such times and places to be fixed by the Chairman and shall observe such procedure in regard to its transaction of business, as may be decided by the Committee. (6) The Committee shall have perpetual succession and a common seal (7) The Committee may sue and be sued in the name of Convener. 5 Functions of the Committee (1) Notwithstanding anything contained in any other law, the Committee shall have the following functions, namely (i) to prepare a sustainable Tourism Development Plan including guidelines to regulate activities in the Special Tourism Zone; (ii) to implement or co-ordinate the implementation of the Tourism Plan; (iii) to enforce the guidelines issued in respect of the development of Special Tourism Zones; (iv) to ensure proper and systematic programming by rendering appropriate advice to the local authorities in regard to formulation of projects and determination of priorities in accordance with the Tourism Development Plan (v) to direct the concerned local authority for taking action against any unauthorized construction or land development or encroachment or such other activities inconsistent with or in violation of the Tourism Development Plan; (vi) to monitor the guidelines prepared by the Committee; (vii) to perform such other functions as may be prescribed or entrusted to it by the Government (2) The local authority concerned shall, notwithstanding anything contained in any other law for the time being in force, act in accordance with the advice or direction in writing if any given by the Committee in respect of any area comprised in a Special Tourism Zone and it shall intimate to the Committee such action as so taken by it. (3) The manner in which the land within the Special Tourism Zone shall be used, whether by carrying out development therein or by conservation, or

such other matters as are "keEy to have any substantiai influence on the deveÉopment of the area under the SpeciaÉ Tourism Zone (4) Every Tourism Development Plan sha*E contain the foEEowing eaements which are necessary for the integrated sustainable deveiopment of the area with major thrust on tourism deveEoprntent\ name\y:- (i) poicy in reaation to the *and use pEan and anocatäon of land for tourism purposes; (ü) poücy in relation to the built up area, environment äncÉuding architectura\ contro* and form; (iii) strategies towards conserving and strengthening existing naturaE systems and enhancing the visual quaiities of the region; and (v) regu\atäons, if anyp found necessary for the inop\ementatäon of the Tourism Deveapment PÉan. 6Powers of the Committee- Notwithstanding anything contained in any other the Committee shah have the fo"owing powers, nameEy (i) to approve the Touräsrn Deve\opment PAans and guidelines for the Special Tourism Zone; (ii) to sanction the projects or deveiopmentaE activities in the Special Tourism Zone; (iäi) to review impEementatäon of the Tourism DeveÉopment PÉan or guideEines prepared for Specia\ Tourism Zone; (äv) to approve the reguEations for conservation of the SpecäaE Tourism Zone; (v) to cal for information from* Government Departnrnts or from the Eoca\ authorities or other authorities or persons with regard to their projects and priorities relating to Special Touris(n Zone; (vi) to conduct or cause to be conducted such surveys and studäesp as it may consider necessary, for the sustainab\e deve*opment of SpeciaE Touräsrpn Zones; to take such action as may be prescribed for the Of any E and or bunding having any tourist importance and situated in a Specäa\ Tourism Zone; (vüi) to provide for infrastructure facilities which may be necessary for the purpose of sustainable deveEopment of a Specäa\ Tourismn Zone, in such manner as may be prescribed; (x) to authorise any officer or institutions to enter upon any land or premises at aEi reasonable tinnes and to do such things thereon, as may be necessary for the purpose of Eawfu"y carrying out any work or activities for the sustainab\e deveEopment of Speciat Tourism Zones: Provided that no person shal\ enter any *and or bui\ding without giving the occupier thereof at least five notice of his intention to do so. 7 (I) Any person aggrieved by an order passed by the in exercise of its powers under section 6 may, within ninety days from the date of receipt of such order, fäEe an appea* to the Government: Provided that the Government may entertain an fäEed after the expiry of ninety days, if it is satisfied that there was sufficient cause preventing the appe"ant from filing the appeaE in time. (2) Every Sha be accompanied by an attested copy Of the order appealed against and such fees, as tñay be prescribed (3) The appe3Eant shau have the right to appear either in person or through a counsel or a duiy authorised agent, and the cornmittee against whose order the appeal has been fi\ede may be represented by such officer, counse* or person as the Committee may authorise (4) The Government may after giving the appei*ant an opportunity of being heard and after making such enquiry as it may deem fit, dispose of the appeal recording the reasons thereof. (5) Every appeal under this section be disposed Of as as may reasonab*y be practicable, but not Eater than four months from the date of fífing of such appeal 8Protection of action taken in good faith- No suit, prosecution or other iegaE proceedings shau Eie against the Committee or the appelÉate authority or any other officer in respect of anything which is in good faith done or intended to be done under this Act or any ruEe made thereunder. 9Æ)irection by Government- The Government may, from time to time, issue to the such or spec i a \ directions Of poi icy as may be deemed necessary or expedient for the purpose of carrying out the objects of this Act and the Committee shau be bound to compEy with such directions. 10.Power to make rules-(1) The Government may, by notification in the Gazette, make rules, either prospectively or retrospectively, for carrying out all or any of the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- (a) the procedure to be followed by the Committee for the preparation of guidelines for the Special Tourism Zones; (b) the procedure to be followed by the Committee for the preparation of regulations for the Special Tourism Zones; (c) the procedure to be followed in providing for other infrastructure facilities for the purpose of sustainable development of Special Tourism Zone; (d) the fees leviable under the Act; (e) any other matter which is to be, or may be prescribed. (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without

prejudice to the validity of anything previously done under that rule. 11. Power to remove difficulties-(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Gazette, do anything not inconsistent with the provisions of this Act or the rules made there under, which appears to them necessary to remove the difficulty: Provided that no such order shall be passed after two years from the date of commencement of this Act. (2) Every order made under sub-section (1) shall be laid before the Legislative Assembly

12. Repeal and Saving -(1) The Kerala Tourism (Conservation and Preservation of Areas) Ordinance, 2005 (4 of 2005) is hereby repealed.Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

